

Message Text

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TO AMEMBASSY BANGKOK IMMEDIATE

INFO AMEMBASSY MANILA IMMEDIATE

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C O N F I D E N T I A L STATE 106075

E.O. 11652: GDS

TAGS: MARR, MASS, TH, CB, VS

SUBJECT: DISPOSITION OF FORMER GVN AND GKR US-SUPPLIED
MILITARY EQUIPMENT

REF: BANGKOK 8143

1. THE RELEVANT AGREEMENTS ARE TO BE FOUND IN THE UNITED STATES TREATIES AND OTHER INTERNATIONAL AGREEMENTS SERIES TO WHICH THE MISSION HAS ACCESS. THEY ARE TIAS 3563 (7 UST 837) AND TIAS 6965 (21 UST 2178) FOR VIET-NAM AND CAMBODIA, RESPECTIVELY.

2. OUR AGREEMENT WITH VIET-NAM REFERRED TO IN PARA 1 ABOVE SETS FORTH CERTAIN UNDERSTANDINGS BETWEEN THE TWO GOVERNMENTS "RESPECTING THE DISPOSITION OF MILITARY EQUIPMENT AND MATERIALS FURNISHED BY THE GOVERNMENT OF THE U.S. AND NO LONGER REQUIRED FOR THE PURPOSES FOR WHICH THEY WERE MADE
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AVAILABLE." PARAGRAPHS 1-5 OF THE AGREEMENT PROVIDE AS

FOLLOWS:

QUOTE: THE GOVERNMENT OF VIETNAM WILL REPORT TO THE GOVERNMENT OF THE UNITED STATES SUCH EQUIPMENT OR MATERIALS AS ARE NO LONGER REQUIRED FOR THE PURPOSES FOR WHICH MADE AVAILABLE. THE GOVERNMENT OF THE UNITED STATES MAY ALSO DRAW TO THE ATTENTION OF THE AUTHORITIES OF THE GOVERNMENT

OF VIETNAM ANY EQUIPMENT OR MATERIALS WHICH IT CONSIDERS TO FALL WITHIN THE SCOPE OF THESE ARRANGEMENTS, AND WHEN NOTIFIED THE GOVERNMENT OF VIETNAM WILL ENTER INTO CONSULTATION WITH THE GOVERNMENT OF THE UNITED STATES WITH A VIEW TO DISPOSING OF ANY SUCH ITEMS IN ACCORDANCE WITH THE PROCEDURES SET OUT IN THE FOLLOWING PARAGRAPHS.

THE GOVERNMENT OF THE UNITED STATES MAY ACCEPT TITLE TO SUCH EQUIPMENT OR MATERIALS FOR TRANSFER TO A THIRD COUNTRY OR FOR SUCH OTHER DISPOSITION AS MAY BE MADE BY THE GOVERNMENT OF THE UNITED STATES.

WHEN TITLE IS ACCEPTED BY THE GOVERNMENT OF THE UNITED STATES, SUCH EQUIPMENT OR MATERIALS WILL BE DELIVERED AS IT MAY REQUEST FREE ALONGSIDE SHIP AT A VIETNAMESE PORT OR FREE ON BOARD INLAND CARRIER AT A SHIPPING POINT IN VIETNAM DESIGNATED BY THE GOVERNMENT OF THE UNITED STATES, OR, IN THE CASE OF FLIGHT-DELIVERABLE AIRCRAFT, AT SUCH AIRFIELD IN VIETNAM AS MAY BE DESIGNATED BY THE GOVERNMENT OF THE UNITED STATES.

SUCH EQUIPMENT OR MATERIALS AS ARE NOT ACCEPTED BY THE GOVERNMENT OF THE UNITED STATES WILL BE DISPOSED OF BY THE GOVERNMENT OF VIETNAM AS MAY BE AGREED BETWEEN THE TWO GOVERNMENTS.

ANY SALVAGE OF SCRAP FROM MILITARY EQUIPMENT OR MATERIALS FURNISHED BY THE GOVERNMENT OF THE UNITED STATES WILL BE REPORTED TO THE GOVERNMENT OF THE UNITED STATES AND WILL BE DISPOSED OF IN ACCORDANCE WITH PARAGRAPHS 2,3, AND 4 OF THE PRESENT ARRANGEMENTS. SALVAGE OR SCRAP WHICH IS NOT ACCEPTED BY THE GOVERNMENT OF THE UNITED STATES WILL CONFIDENTIAL

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BE USED AS MAY BE MUTUALLY AGREED. UNQUOTE.

3. THE OPERATIVE LANGUAGE OF THE CAMBODIAN AGREEMENT IS AS FOLLOWS:

QUOTE: ALL DEFENSE ARTICLES FURNISHED TO THE GOVERNMENT OF CAMBODIA SHALL BE SUBJECT TO THE REQUIREMENTS OF UNITED STATES LAW AND TO THE FOLLOWING CONDITIONS SPECIFIED IN

NUMBERED PARAGRAPHS 3, 4, 5, 6 AND 7 OF THE EXCHANGE OF NOTES OF MAY 16, 1955, AT PHNOM PENH BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND CAMBODIA:

ANY MILITARY ASSISTANCE FURNISHED BY THE UNITED STATES WILL BE PROVIDED ON THE CONDITION THAT NO EQUIPMENT OR MATERIALS FURNISHED WILL BE USED TO UNDERTAKE ACTS OF AGGRESSION AGAINST ANY NATION.

THE GOVERNMENT OF CAMBODIA WILL UTILIZE THE EQUIPMENT AND MATERIALS FURNISHED BY THE GOVERNMENT OF THE UNITED STATES SOLELY FOR THE MAINTENANCE OF ITS INTERNAL SECURITY AND LEGITIMATE DEFENSE OF ITS TERRITORY.

THE GOVERNMENT OF CAMBODIA WILL ASSURE THE SAFEGUARDING AND THE SECURITY OF ANY ARTICLE, SERVICE OR TECHNICAL MILITARY INFORMATION FURNISHED BY THE UNITED STATES.

THE TITLE TO OR POSSESSION OF ANY EQUIPMENT, MATERIALS, INFORMATION, OR SERVICES FURNISHED WILL NOT BE TRANSFERRED TO ANY PERSON NOT AN OFFICER OR AGENT OF THE GOVERNMENT OF CAMBODIA, OR TO A THIRD COUNTRY, WITHOUT THE PRIOR CONSENT OF THE COMPETENT AMERICAN AUTHORITIES.

IF THIS EQUIPMENT IS NO LONGER REQUIRED FOR THE PURPOSES FOR WHICH IT WAS ORIGINALLY FURNISHED AS SPECIFIED IN PARAGRAPH 4 OF THE PRESENT AGREEMENT, THE GOVERNMENT OF CAMBODIA WILL RETURN IT TO THE UNITED STATES OR DISPOSE OF IT IN ACCORDANCE WITH THE WISHES OF THE GOVERNMENT OF CAMBODIA.

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THE UNITED STATES.

WITH REGARD TO THE USE OF THESE ARTICLES, THE GOVERNMENT OF CAMBODIA WILL PERMIT SUCH ADMINISTRATIVE OBSERVATION AND REVIEW AS THE UNITED STATES GOVERNMENT MAY REQUIRE AND PROVIDE NECESSARY INFORMATION TO THE UNITED STATES GOVERNMENT. UNITED STATES GOVERNMENT PERSONNEL DISCHARGING THE RESPONSIBILITIES SPECIFIED IN THIS PARAGRAPH WILL OPERATE AS PART OF THE EMBASSY OF THE UNITED STATES OF AMERICA UNDER THE DIRECTION AND CONTROL OF THE CHIEF OF THE DIPLOMATIC MISSION AND WILL HAVE THE SAME PRIVILEGES AND IMMUNITIES AS ARE ACCORDED OTHER PERSONNEL IN COMPARABLE POSITIONS IN THE EMBASSY OF THE UNITED STATES.

THESE ARRANGEMENTS WILL APPLY TO ALL UNITED STATES MILITARY

ASSISTANCE HERETOFORE FURNISHED OR WHICH MAY HEREAFTER BE FURNISHED TO CAMBODIA BY THE UNITED STATES, WHETHER THAT ASSISTANCE IS RECEIVED DIRECTLY FROM THE GOVERNMENT OF THE UNITED STATES OR TRANSFERRED IN ANY OTHER MANNER TO CAMBODIA.

CAMBODIA OR THE UNITED STATES MAY IN WRITING REQUEST REVISION OR GIVE NOTICE OF TERMINATION OF THE PRESENT AGREEMENT, WHICH SHALL BE EFFECTIVE UPON RECEIPT. IN THE EVENT OF TERMINATION THE MATERIALS AND EQUIPMENT FURNISHED BY THE UNITED STATES WILL CONTINUE TO BE SUBJECT TO THE CONDITIONS SPECIFIED IN NUMBERED PARAGRAPH 1 OF THIS AGREEMENT, WHICH CONDITIONS WILL REMAIN IN FORCE UNTIL THEIR REVISION OR THEIR TERMINATION BY A NEW AGREEMENT. UNQUOTE.

4. WE SUSPECT CHATCHAI IS NOT SEEKING TEXTS OF THESE AGREEMENTS FOR FACILITATIVE PURPOSES, BUT RATHER AS JUSTIFICATION FOR TURNING AT LEAST THE FORMER VNAF ASSETS OVER TO THE NEW REGIME IN VIET-NAM. THEREFORE, IN MAKING THE TEXTS AVAILABLE (YOU MIGHT SIMPLY XEROX THE TEXTS FROM YOUR TIAS VOLUMES), YOU SHOULD STRESS THE USG POSITION AS FOLLOWS:

WHILE WORDING OF THESE TWO AGREEMENTS DIFFERS SOMEWHAT, ESSENTIAL LEGAL ISSUE UNDER BOTH IS THE SAME. GVN AND GKR
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WERE GIVEN RIGHTS OF POSSESSION AND USE OF EQUIPMENT FOR THE PURPOSE FOR WHICH IT WAS FURNISHED, THAT IS, TO ASSIST IN DEFENSE AGAINST COMMUNIST AGGRESSION. UNDER THOSE AGREEMENTS, WHEN THE EQUIPMENT IS NO LONGER NEEDED FOR ITS ORIGINAL PURPOSE, IT IS TO BE RETURNED TO THE U.S. IF THE U.S. SO WISHES. THE EQUIPMENT CAN OBVIOUSLY NO LONGER BE USED FOR THE PURPOSE FOR WHICH IT WAS FURNISHED. THEREFORE, IT SHOULD BE RETURNED TO THE USG. STATEMENTS FROM THE NEW AUTHORITIES IN PHNOM PENH AND SAIGON MAKE IT CLEAR THAT THEY HAVE NO INTENTION OF RETURNING ANY EQUIPMENT TO THE USG. THEREFORE FOR THAIS TO RETURN EQUIPMENT TO CAMBODIA OR VIETNAM WOULD BE TO ENSURE THAT THE U.S., WHICH IS ENTITLED TO IT, WILL NOT GET IT. GIVEN THESE CIRCUMSTANCES THE USG, INCLUDING THE CONGRESS AND THE AMERICAN PEOPLE, WOULD NOT UNDERSTAND A FRIENDLY GOVERNMENT TURNING OVER OUR MILITARY EQUIPMENT TO THE COMMUNISTS.
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